

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE COMPLAINT OF JAMES E. CRAIG)	
d/b/a TREEHAVEN HOMES, INC.)	
)	
VS.)	CASE NO. 9386
)	
BOONESBORO WATER ASSOCIATION, INC.)	

O R D E R

On May 24, 1984, the Commission received a letter of complaint from Mr. James E. Craig, d/b/a Treehaven Homes, Inc., ("Treehaven") in regard to water main extensions that had been constructed for a real estate subdivision in Clark County, Kentucky. The customers connected to the Treehaven extensions are served by the Boonesboro Water Association, Inc. ("Boonesboro").

An informal conference was held in reference to this complaint on February 15, 1985, among representatives of the Commission staff, Treehaven and Boonesboro. The matters discussed during this conference can be summarized as follows: Early in 1983, Treehaven approached Boonesboro with construction plans to expand a mobile home park from 57 lots to 201 lots. The plans showed three phases of expansion: (1) 55 lots, (2) 57 lots and (3) 32 lots. Water mains for the 55-lot phase have been completed. All of the water

purchased before any expansion work was done was through a master meter that served the 57 existing lots from a 4-inch water main. Each of the new lots is individually metered, and Treehaven has paid Boonesboro's service connection fee of \$200 for each lot. Treehaven now receives a water bill for each of the individually metered lots in addition to its master meter bill for the original 57 lots.

Due to the increase from 57 lots to 201 lots, a larger water main was needed from Boonesboro. Boonesboro agreed to extend a 6-inch water main 500 feet to the entrance of Treehaven. Boonesboro refunded Treehaven a check in the amount of \$397.50 for 50 feet of this 500-foot extension. Treehaven did not agree to this refund, citing PSC regulation 807 KAR 5:066, Section 12(3), and hence, never cashed Boonesboro's refund check.

Boonesboro required a deed for ownership of the water lines in the mobile home subdivision and a general construction warranty for one year. Treehaven has met both of these requirements.

The Commission staff notified Boonesboro by letter dated May 24, 1985, that the provisions of 807 KAR 5:066, Section 12(3), were applicable to the Treehaven extensions, and that Boonesboro should refund to Treehaven the average cost of 50 feet of the Treehaven extensions for each customer that Boonesboro was serving through these extensions.

In a July 8, 1985, letter, Treehaven advised the Commission that Boonesboro was not making the refunds recommended by the Commission staff.

By Order entered July 26, 1985, the Commission directed Boonesboro to appear before it on August 28, 1985, and show cause why it should not comply with the Commission's regulations and refund Treehaven the average cost of 50 feet per customer. The hearing was held as scheduled in Frankfort, Kentucky, on August 28, 1985, and all parties of interest were given an opportunity to be heard.

COMMENTARY

Mr. Craig appeared at the hearing of August 28, 1985, and gave testimony, which may be summarized as follows: Treehaven's expansion was planned and constructed as a real estate subdivision. The construction budget relied upon Section 12(3) of 807 KAR 5:066 for the reimbursement of the cost of 50 feet of water main construction per customer connected to the water distribution system. Treehaven currently receives 55 individual water bills from Boonesboro. Treehaven has mailed letters to Boonesboro outlining the costs incurred during construction and invoices are available upon request.

Hon. David Redwine, counsel for Boonesboro, also appeared at the hearing and provided testimony on behalf of Boonesboro. His testimony can be summarized as follows: Treehaven came to Boonesboro in the spring of 1983 and asked

for water service, and Boonesboro agreed. Boonesboro indicated it would serve water to Treehaven if Treehaven would install the water lines according to American Water Works Association standards, permit inspection of their construction by Boonesboro and guarantee them for one year. Boonesboro offered to take over the maintenance of the distribution system after 1 year if Treehaven would provide a deed for Boonesboro's ownership, along with appropriate easements for operations and maintenance purposes. The plans delivered to Boonesboro by Treehaven indicate the lots have an average frontage of 60 feet within the subdivision. Boonesboro objects to reimbursing Treehaven for 50 feet per customer connection and thereby subsidizing the cost of development of a for-profit subdivision. Boonesboro does not believe the Commission's regulations intend that utilities subsidize development of subdivisions by private developers, but apply to serve rural county residents.

FINDINGS AND ORDERS

The Commission, after examining the record and being advised, is of the opinion and finds that:

1. Section 12(3) of 807 KAR 5:066 is applicable to extensions made for any customer served by Boonesboro. A customer's location within a subdivision development does not change Boonesboro's obligation to provide an extension of 50 feet for that customer. The customer must contract for usage of Boonesboro's water service for 1 year or more and provide a guarantee for such service.

2. Treehaven constructed a real estate subdivision and deeded to Boonesboro the ownership of the subdivision's water distribution system including all easements.

3. Treehaven constructed the water distribution system in accordance with Boonesboro's standards of construction and guaranteed the system against leakage for one year.

4. Boonesboro has received from Treehaven the amount of \$200 for each individual meter connection.

5. Treehaven pays 55 individual water bills to Boonesboro for water service.

6. Boonesboro has not refunded to Treehaven a sum equal to the average cost of 50 feet per customer connected to the distribution system.

IT IS THEREFORE ORDERED that Boonesboro shall refund to Treehaven in accordance with Section 12(3) of 807 KAR 5:066 an amount equal to the average cost of 50 feet of the water mains constructed by Treehaven for each metered service connection to said mains.

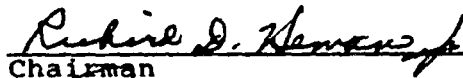
IT IS FURTHER ORDERED that Boonesboro shall draft an appropriate agreement between officials of both Boonesboro and Treehaven setting forth the average cost per foot of construction of the distribution system and the amount to be refunded to Treehaven for each individual connection. This agreement shall be filed with the Commission within 30 days of the date of this Order. Failure to file this agreement


within 30 days shall subject Boonesboro to penalties as prescribed in KRS 278.990.

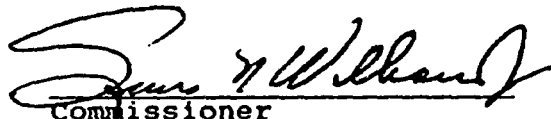
IT IS FURTHER ORDERED that nothing herein shall prevent the Commission from entering further Orders in this matter.

Done at Frankfort, Kentucky, this 2nd day of October, 1985.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary